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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,913	07/07/2000	Clifford E. Kahn	EMC00-03(00011)	7737

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11/22/2005

EXAMINER

COLIN, CARL G

ART UNIT PAPER NUMBER

2136

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/611,913	Applicant(s) KAHN, CLIFFORD E.	
	Examiner Carl Colin	Art Unit 2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☒ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 6, 9, 12-14, 19, 24, 27, 30-32, 45, 52, 53 and 55-82.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note of section 3 below.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 3. NOTE: : The reply filed on 11/4/2005 is not fully responsive because it fails to include any record of the substance of the 11/1/2005 interview. One of the main points discussed was the interpretation of the terms rule and rule operation. Examiner indicated that rule and rule operation may be interpreted broadly. Applicant pointed out that rule operations are part of the rules and first and second rules are separately distinct rules as shown in figure 5 of Applicant's disclosure. The other main points discussed between the Examiner and Applicant's Representative were more directed to whether combining claims 63 and 65 would make claim 63 more allowable. Examiner pointed out that by combining claims 63 and 65 the scope of the combined claims will be similar to claims 77, 81 and others that were rejected as new matter and therefore may raise a new matter situation. Applicant's Representative indicated that evidence will be provided to overcome the new matter from the Final Office Action. However, upon further consideration, Applicant's response has not overcome the 112 rejection. Applicant relies on page 7 and page 9 to explain the lack of support of the limitations of claims 77 and 81 as claimed. Examiner respectfully disagrees. First, there is no explicit discussion about a second rule in the specification besides disregarding second rule from being processed. Second, Applicant's disclosure at the time the invention was made was focused more on selecting rules that apply to a request based on filter operations; the selection of all the rules is done first, prior to processing the rules; once a disregard instruction is reached in performing a first rule, rule processing stops and any other remaining rules related to the disregard instruction are disregarded (page 38). The advantage of the disregard instruction as explained in applicant's disclosure is to process fewer than all the rules initially selected (page 43). Note that rules are marked from being disregarded, which means when rules are not to be processed the rule operations in those rules cannot be processed either because "rule operations" (applicant's terminology) are just subset of the rules. Applicant's explanation that the disclosure indicates that the selected rules are processed in order, citing page 7, is wrongly interpreted. The disclosure recites "rule operations" in the rules are performed sequentially not the actual rules (page 7, lines 6-7). Applicant now relies on a selection process of a second rule after disregard instruction of a first rule, and also relies now on performing rule operation in a second rule other than the rule operation disregarded from the first rule. Again, there is no such description in the disclosure. At the time the invention was made, applicant was not concerned about disclosing explicitly the performing steps and filter operations of a second rule or successive rules if a first rule contains a disregard instruction as claimed, the most that is said in the disclosure is: continue processing of rules that are not marked as disregarded. Applicant's representative previously indicated last paragraph of page 7 to page 8 and figure 5 to support the previously amended claims. After further review by Examiner, none of the citations provided by Applicant from last conversation with Examiner nor the citations in the reply filed on 11/4/2005 satisfied the 112th paragraph rejection. There is lack of written description of second rule or second rule operations as claimed. Therefore, applicant's claims still contain new matter. Applicant has amended claim 63 by adding the limitation of claim 65 to claim 63, which raise the issue of new matter as explained above. Applicant has amended claim 1 by adding the limitation of claim 9 to claim 1. In response to applicant's argument that Calvignac discloses a data packet header and there is no evidence of a role identity of a requestor, Examiner would like to clarify that the citations provided to applicant clearly state that the filter rules are applied to the packet to ensure that packets originated from unauthorized sources are denied access to network resources such as a server. The filter rules are also applied based on source (requestor) and destination addresses (resource) of the packet to determine whether a packet from a particular host is allowed to reach a particular destination that meets the recitation of determining "role identity". (See column 1, line 30 through column 2, line 22). Applicant further states that Calvignac does not amount to determining a "role identity" (e.g. characteristic and function). However, contrarily to Applicant's interpretation of "role identity", the disclosure (page 29, lines 25-26) defines "role identity" as "who is asking for access". For at least the reasons cited above, amended claim 1 is not in condition for allowance. Regarding claim 19, Applicant states that the clear distinction with the prior art is that Applicant claims "performing rule operations" whereas Calvignac discloses "selecting filter rules". Examiner respectfully disagrees. First, the selecting process may be interpreted as performing. Second, underlining only the word "selecting" in the passage by Applicant is not clear evidence because the passage clearly shows the steps of performing a match for a range of values determining whether a rule is non-intersecting to provide subsets of rules that are or are not intersecting rules as explained in the passage and as already described in details in the last office action (pages 2-4), the steps of determining and matching meet the limitation of performing rule operations. Calvignac pre-selects subsets of rules to process by doing either exact matches or matches with range of values. Calvignac's invention reduces the amount of rules to be tested by performing filter operations in the rule selection process so that all the rules need not be processed (column 8, lines 14-23). Calvignac's discloses that the sweep process (performing or processing of rule) ensures rules are ordered from smallest to largest (column 8, lines 42-45). Other independent claims address similar issues as discussed above. For at least the reasons cited above and in the previous office actions, the request for reconsideration has been considered but does not place the application in condition for allowance.



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